Collins Amendment (SA 3879) on Capital and Risk Requirements

Summary

Senator Collins has offered an amendment to the Dodd financial regulatory reform bill to ensure that the nation's largest banks and bank holding companies are required to meet, at a minimum, the same capital standards imposed on smaller banks. It is important to note that under current law, and under the Dodd bill, regulators can allow larger financial institutions to follow capital standards more lax than those that apply to smaller depository institutions. The Collins amendment also requires regulators to adopt capital standards that address the risk to the financial system presented by institutions as they grow in size, or engage in certain risky practices. More specifically, the amendment does the following:

- Requires bank regulators to apply, at a minimum, the current capital standards that depository banks must follow to:

    - All banks, including the nation's largest banks using the Basel II "Advanced Approaches." The Collins amendment will ensure that banks with more than $250 billion in assets will need to meet capital standards at least as strict as those applying to smaller banks. Neither the Dodd bill nor current law imposes this requirement.

    - Bank holding companies. The Collins amendment will ensure that the measure of Tier I capital for bank holding companies reflects only true equity, and not debt items like "trust-preferred securities" (a form of tax-deductible subordinated debt). The Collins amendment also ensures that bank holding companies cannot operate under capital standards that are less stringent than insured banks. Neither the Dodd bill nor current law imposes these requirements.

    - Financial institutions identified for Fed supervision by the Financial Stability Oversight Council under section 113 of the Dodd bill. With this change, the Collins amendment will ensure that investment banks (such as the old Bear Stearns, Lehman Brothers, etc.) also face the same capital requirements that apply to smaller depository banks. Neither the Dodd bill nor current law imposes this requirement.

- Requires financial institutions identified for Fed supervision to measure capital for leverage purposes by average total assets. The Collins amendment reduces the incentive to engage in the so-called "Repo 105" accounting gimmick that allowed certain financial institutions to reduce their apparent leverage levels through the use overnight transactions at the end of each reporting period. Neither the Dodd bill nor current law addresses the "Repo 105" loophole.

- Requires the regulators to adopt capital and risk standards that address the risk to the financial system presented by institutions as they grow in size, or engage in certain risky practices. Neither the Dodd bill nor current law imposes this requirement.

  The Collins amendment has been endorsed by FDIC Chairman Sheila Bair.